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OFFICE OF PETITIONS

In re Application of :
Seth Harbuck :
Application No. 10/669,275 : DECISION REFUSING STATUS
Filed: September 23, 2003 : UNDER 37 CFR 1.47(b)
For: LOW COST FUEL PUMP AND FILTER :
ASSEMBLY :

This is in response to the petition under 37 CFR 1.47(b), filed January 28, 2005.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 23, 2003 without an executed oath or declaration and naming Seth Harbuck as the sole inventors.

Accordingly, on September 28, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on January 28, 2005, the instant petition and a two (2) month extension of time were filed.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;

- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks item (1), as set forth above.

As to item (1), Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration or cannot be reached or located.

Before an inventor can refuse to sign an oath or declaration, he must have been presented with a copy of the application papers (specification, claims and drawings). Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to, or expressly refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. See MPEP 409.03(d).

If the inventor cannot be reached or located, a copy of the application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration for the patent application. A forwarding address should be requested if the papers are returned and if other diligent efforts and attempts to locate the inventor, e.g. through e-mail or the telephone, continue to fail, then applicant will have established that the inventor cannot be reached. See MPEP 409.03(d).

After this decision is mailed, deposit account No. 16-2201 will be charged the small entity two-month extension of time fee (\$225.00), the fee for the petition under 37 CFR 1.47 (\$200.00) and the surcharge for late oath or declaration (\$65.00).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at
(571)272-3228.

A handwritten signature in black ink, appearing to read 'Ed T', followed by a long horizontal flourish.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office